

Serial No. 10/619,428

Nakanishi

Attorney Docket No. KAN-001 (10029)

REMARKS

Claims 1-5 and 7-8 are pending. The amendment to claim 1 finds support in original claims 5 and 6. Claim 7 finds support in the specification at page 7, lines 6-9. Claim 8 finds support at page 7, lines 9-11, and page 10, line 21, to page 11, line 9. No new matter has been added.

Claims 1-3 and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Fucci, U.S. 5,286,253. Applicant respectfully traverses this rejection.

Present claim 1 is directed to a medical handpiece featuring, among other things, a cutting tool having an elongate flexible shank, an elongate tube portion of a sheath which is malleable and deformable for receiving the cutting tool, and a member interposed between the shank and the tubular sheath.

The Examiner seems to take one (10) of the three concentric members 10, 12, and 14 of Fucci as the elongate flexible shank of the present invention, the flexible section 20 of the torque transmitting member 22 as the tubular sheath of the present invention, and the thin sleeve 16 as the interposed member of the present invention. However, the members 10, 12, 14, and possibly 16 constitute the flexible section 20. Thus, Fucci's thin sleeve 16 is outside of the concentric member 10 and is outside or is the outside part of the flexible section 20 (see Fucci Fig. 1), rather than between the flexible shank and tubular sheath as is required of the interposed member of present claim 1. Accordingly, the (1) shank and (2) tubular sheath of the present invention apparently correspond more closely to Fucci's (a) torque transmitting member 22 including the flexible section 20 and (b) rigid tubular sheath 32, respectively.

However, as clearly defined in amended claim 1, the shank of the present invention has a first section to be chucked in a handpiece body, and a second section having a diameter smaller than the diameter of the first section and having sufficient flexibility to be elastically deformed more easily than said first section. Fucci does not teach that the overall shank, i.e. the elongate thin portion of the torque transmitting member 22, is flexible. Fucci teaches that only the flexible section 20 (distal portion of the member) of the torque transmitting member 22 is flexible. Further, Fucci does not even suggest that the shank has the first section to be chucked in a handpiece body, or the second section having a diameter smaller than the diameter of the first section. Still further, Fucci does not disclose that the rigid tubular sheath be malleable and deformable, in contrast to the elongate portion of the sheath of the present invention which may

070601

4

Serial No. 10/619,428

Nakanishi

Attorney Docket No. KAN-001 (10029)

be shaped into a desired curved shape which is maintained in the absence of external force.

In contrast to this, with such first and second sections of the shank, the present invention provides remarkable advantage that sufficient flexibility may be given even to a short cutting tool, as described on page 12, lines 7 to 12 of the original description.

Therefore, the present invention set forth in new claim 1 is not anticipated by Fucci.

Claims 2 and 3 depend from patentable claim 1, so that these claims are also patentable.

Regarding claims 5 and 6, the Examiner seems to take one (10) of the three concentric members 10, 12, and 14 of Fucci as the shank of the present invention, and another (14) of the three members as the second section of the same shank. However, Fig. 1 of Fucci is a partial broken cut away view of the flexible section of the torque transmitting member (column 2, lines 65-66) which would seem to show that members 10 and 14 are part of the same section of the shank, and as such would flex together. Moreover, Fucci is silent with respect to the relative flexibility of concentric members 10 and 14.

Further, as discussed above regarding claim 1, Fucci does not teach that the overall shank (the elongate thin portion of the torque transmitting member 22) is flexible, nor does it even suggest that the shank has the first section to be chucked in a handpiece body and the second section having a diameter smaller than the diameter of the first section.

Further, though the Examiner argues that Fucci discloses a bearing contact portion of the present invention near numeral 36, Fucci does not expressly disclose such a portion. Numeral 36 refers to the distal tip of the sheath 32, so that the bearing contact portion, which is defined to be positioned between the burr and the shank, cannot be near numeral 36.

Thus the present invention set forth in amended claim 5 is not anticipated by Fucci.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fucci in view of Brown, U.S. 6,514,258. Brown teaches to use markings on surgical tools to help the clinician know which bits to connect and the corresponding length of the cutting tool. However, as discussed above, Fucci does not teach the inventive feature of the present invention as set forth in claim 1, from which claim 4 depends. Thus, the present invention set forth in claim 4 is not obvious over Fucci in view of Brown.